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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20054

Dear Mr. Caton:

Re: Local Exchange Carriers' Rates, Terms, and Conditions for Expanded
Interconnection Through Physical Collocation for Special Access and
Switched Transport, CC Docket No. 93-162 -- Refund Plans

Southwestern Bell Telephone Company ("SWBT"), Pacific Bell, and Nevada Bell file this reply to the August 4, 1997 opposition to refund plans filed in this proceeding by the Association for Local Telecommunications Services ("ALTS"). SWBT, Pacific Bell, and Nevada Bell filed their refund plans on July 28, 1997 in compliance with the Commission's *Second Report and Order*, released June 13, 1997 in this proceeding.¹

The Commission should reject ALTS's opposition out of hand. ALTS's opposition is vague and inaccurate. It does not address any substantive issues or the specifics of any refund plan and is an untimely petition for reconsideration of the requirements of the *Second Report and Order*.

First, ALTS states that "the 'plans' submitted by the ILECs do not contain actual calculations of refund amounts, but rather promises by the ILECs to calculate refunds in accordance with their new physical collocation tariff rates." Although the *Second*

¹ Pacific Bell's Refund Plan is for those central offices for which Pacific Bell filed tariff revisions on July 28, 1997. Pacific Bell will make its additional compliance filings in accordance with the Commission's *Order* released July 25, 1997 in this proceeding, which granted Pacific Bell an extension of time.

Report and Order did not require calculations,² SWBT and Nevada Bell provided relevant and appropriate calculations in their refund plans. The filing of Pacific Bell's full refund plan is still pending, pursuant to the extension of time granted by the Commission.

Second, ALTS states that "each ILEC issuing physical collocation refunds should be ordered to immediately provide a computer disc or discs containing the aggregated spreadsheet files used to calculate its overall refund liability...labels should indicate which program was used to make the calculations,...a disc should also be provided to each customer containing only the data pertaining to that customer." The *Second Report and Order* did not require the submission of discs containing spreadsheets and data, and there is no basis for such a requirement now.³ In addition, an attempt to distribute "aggregated spreadsheet files" would reveal customer proprietary network information ("CPNI") without the customer's permission, because individual ILECs that are issuing refunds have as few as one interconnecting customer that is eligible for refunds. Where there is only one customer, or only a few customers, data cannot be properly aggregated to avoid disclosure of CPNI.

Third, ALTS states, "Upon receipt of the second disc, each customer would have ten calendar days in which to submit objections." ALTS is improperly attempting to gain additional time to bring objections that it already had the opportunity to bring. The refund plans and subsequent refunds are to be based on the LEC tariff changes, and the Commission properly established the same date for oppositions to refund plans as for petitions to suspend and investigate the tariffs. The time for bringing objections to tariffs is constrained by the effective dates set forth in §204(a)(3), and ALTS did not petition for suspension and investigation of any of the LECs' tariffs. Having identified no substantive issue concerning the LECs' tariff changes or refund plans, ALTS's backdoor attempt to gain additional time for objections must be rejected.

² The *Second Report and Order* requires that refunds be calculated in accordance with the requirements of the *Order* but does not state that the calculations are to be included in the refund plans. *Second Report and Order*, paras. 437 and 439. This is in contrast, for instance, to the *800 Data Base Proceeding* in which the Commission required "incumbent LECs with disallowed exogenous costs to file a schedule of proposed refunds...[which] should be accompanied by a detailed description of how the proposed refunds were calculated, and a description of the carrier's plan to implement the refund." *800 Data Base Access Tariffs and the 800 Service Management System Tariff and Provision of 800 Services*, CC Docket Nos. 93-129 and 86-10, *Order on Reconsideration*, Released April 14, 1997, para. 21.

³ In addition, ALTS's statement that the calculations in question "are now done using ordinary spreadsheet application programs" is wrong. Spreadsheet application programs apply compound interest, rather than the simple interest required by the *Second Report and Order*.

For all the above reasons, the Commission should reject ALTS's opposition to the LECs' refund plans. SWBT, Pacific Bell, and Nevada Bell have met the requirements of the Commission's Orders, and their plans should be accepted.

Respectfully submitted,

A handwritten signature in cursive script, reading "Jeffrey B. Thomas".

Jeffrey B. Thomas
Attorney for Southwestern Bell Telephone Company,
Pacific Bell, and Nevada Bell

cc: Richard J. Metzger, ALTS
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